

GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Canara Tyre and Rubber Workers Ltd., Kodialbail, Mangalore.

Award of the Labour Court, Mangalore—Published.

Read the following papers :—

(1) Letter No. R/ID/LCM/36/69, dated 13th November 1970 from Sri Mohd. Hameeduddin Khan Presiding Offices, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE.

13th November 1970.

Reference (ID) (LCM) No. 36 of 1969.

Present;

Mohd. Hameeduddin Khan, B.Sc., LL.B.,

Presiding Officer.

Between.—

The Workmen represented by the Secretary, Motor and General Mazdoor Sangha, Felix Pai Bazaar, Mangalore.

and

... I Party.

The Management of Canara Tyre and Rubber Works Ltd., Kodialbail, Mangalore.

... II Party.

The Government of Mysore being of opinion that an industrial dispute exists between the workmen and the management of Canara Tyre and Rubber Works Ltd., Mangalore referred it under Section 10 (1)(c) of the Industrial Dispute Act, 1947 *vide* Order No. FCL 290 LLD 69, dated 8th July 1969, to this Labour Court at Mangalore for adjudication on the following points of dispute :

- I. Is the management of Canara Tyre and Rubber Works, Ltd., Kodialbail, Mangalore, justified in terminating

the services of Sri K. Rama with effect from 7th November 1968?

II If not, to what relief the said worker entitled to?

2. After the receipt of the reference on 10th July 1969, it was registered as Reference (ID) (LOM) No. 36 of 1969 on the file of this Court, and notices were issued to both the parties to file their claim and counter statements. The I Party was represented by Sri P. Ghate, and the II Party was represented by Sri K. S. Rao. On 2nd August 1969 claim statement was filed, and on 29th August 1969 Mr. Sequiera who had filed joint authorisation with Sri K. S. Rao on the previous hearing after adjournment filed the counter statement of the II Party. In view of the pleadings, additional issues were framed on that day apart from the points of dispute.

3. The case of the I Party as per the claim statement is that K. Rama, the worker in the dispute, was employed under the II Party as a cooly for doing general work and he was paid a daily wage of Rs 2-35. The said workman had put in a service of over three years by the time his services were orally and abruptly terminated on 7th November 1968. It is stated that the relations between the II Party management and the I Party union were none too cordial. The management was adopting harassing tactics and unfair labour practices and followed vindictive policies. Even the terms of settlements were flouted and it declared lesser bonus, refused to apply the increased wages to the overtime earnings, kept the factory closed for a number of days without paying wages or compensation to their employees, stopped the customary benefits of medical relief and educational benefits and so on which gave rise to a number of disputes between the parties. As a reprisal for raising disputes and demanding the just and legitimate reliefs, the II Party even dismissed from service many of the employees. K. Rama, concerned in this dispute, is a victim of this policy of vindictiveness of the employer. It is stated that it is not correct that K. Rama was employed as a casual worker. He was a regular worker but in a very casual manner his services were dispensed with without any written orders or without holding any enquiry or paying any compensation or for that matter for any reasonable cause. His repeated oral requests to reinstate him were not heeded to and finally when he wrote to the management on 15th November 1968 requesting to be reinstated the II Party did not even care to reply to his letter. At a belated

stage, in March 1969 it came forth with a plea that he was only a casual worker. This is clearly an afterthought and a self-serving statement. The II Party has adopted clearly unfair labour practice in the matter of appointment and termination of K. Rama. His termination clearly amounts to victimisation. It is stated that under the circumstances the termination of services of K. Rama by the management of II Party on 7th November 1968 is clearly illegal and unjustifiable. Lastly it was prayed that after due enquiry the II Party may be called upon to reinstate him with full back wages and continuity of service and costs may also be awarded to the I Party.

4. The case of the II Party as contained in the rejoinder statement is that this dispute is raised only with an ulterior motive to harass the management. The management employs some workers as casual and temporary coolies for temporary need. K. Rama was so employed. He worked from 16th April 1966 to 24th February 1967. Thereafter he was not to be seen and again from 1st April 1967 he worked as casual and temporary cooly upto 9th November 1968. The management is engaged in the activities of retreading tyres and in 1968 the number of tyres retreaded by the II Party management steeply fell down. On account of nationalisation of routes and other causes. Most of the operators in South Kanara lost their bus permits on account of nationalisation of passenger transport. Therefore, there was no casual work for Sri K. Rama, being casual and temporary worker and he was informed about this in November 1968. The management is justified in their action. It is stated that Sri K. Rama worked as casual and temporary cooly but it is denied that he was in service for three years. It is stated that the relationship between the workers and the management is cordial. The management is not at all interested in harassing workmen or to adopt practices which are unfair. It is not true that the management is following vindictive policies or measures. The union born recently, in its desire for enlisting more and more members perhaps, was angling for more disputes by sowing the seeds of discord. The union has misinterpreted every action of the management to suit its convenience. The facts stated in para 3 of the claim statement are denied. It is stated that K. Rama was a casual and temporary coolie and he was orally told that there is no casual or temporary work and also because the output is reduced considerably. No enquiry is necessary because he was not terminated for misconduct. Coolie will

never be permanent. He is only casual. Such coolies are available for casual work. Coolies are free to offer their work to any other including the II Party. But whenever he worked as a casual worker he was paid wages. It is stated that the victimisation, unfair labour practice, etc., are denied and they are readily available stock phrases of the I Party. Lastly it was prayed that this Court may reject the demand with costs. In view of these pleadings the following additional issues were framed on 29th August 1969 apart from the points of dispute.

1. Whether the workman Sri K. Rama was a casual and temporary cooly and the II Party management terminated his services on the ground of nationalisation of passenger transport as contended in para 3 of the counter statement and therefore the action of the II Party management against the said worker in terminating the services is justified?
2. Whether the said worker put in about three years of service under the II Party management, and that he was a regular worker, and that his services were terminated abruptly on 7th November 1968 without holding any enquiry or paying any compensation to him by the II Party management unlawfully?
3. Whether the II Party management is guilty of victimisation and unfair labour practice as contended in para 3 and 4 of the claim statement?
4. What award?
5. In support of his case the worker examined himself as W.W 1 and on his behalf altogether 44 documents were got marked as Exs. W. 1 to W. 44. Exs. W. 43 and W. 44 were got marked by consent during the course of argument of Sri P. Ghate on 6th November 1970. On behalf of the II Party only one witness Sri P. R. Mallya, Managing Director of Canara Tyre and Rubber Works Ltd., was examined as M W. 1, and one document i.e., statement of tyre retreading work, was got marked as Ex. M. 1 and this was marked subjected to proof. Argument of Sri. P Ghate was heard on 6th November 1970. Argument of Sri K. S. Rao and the reply argument of Sri P. Ghate were heard on 7th November 1970.
6. The contention of Sri P. Ghate is that the stand of the II Party in this case is that the I Party was a casual cooli and as there was no work to provide him, he was refused work from

7th November 1968. But the fact of his being a casual cooli was not established by the II Party. on the other hand, the stand of the I Party is that he was a regular cooli and worked for three years at the time when his services were terminated. With reference to Exs. W. 2, W. 13 and W. 83 which show the weekly attendance of the worker, i.e., attendance-cum-payment wages vouchers and the evidence of worker W.W. 1 and commencing upon the evidence of M.W. 1 he argued that it is proved by this evidence that the worker was under the employment of the II Party continuously from 12th April 1966 to 6th November 1968 leaving the interval of about one month upto 30th March 1967, for which period he was not allowed by the II Party to work until he paid the fine amount of Rs 3-88 as per Ex. W. 34. He argued that the word 'casual' is not defined in the Industrial Disputes Act, but in the Industrial Employment (Standing Orders) Act the word 'casual' has been defined and as per the dictionary meaning given in 20th Century the word 'casual' means accidental, unforeseen, occasional or off-hand. As per Ex. W. 2 to Ex. W. 83 Sri K. Rama worked for every week except for about a month from February to March 1967. Thus the worker has worked week after week, month after month and therefore he cannot be treated as a casual or temporary cooli. He argued that the II Party is carrying on retreading factory and the worker I. question was appointed for the work connected with retreading. Therefore, his work must be taken to be continuous, because he was employed to do the work of stepney, i.e. fitting of tyre and tubes to discs. He referred to the evidence of M.W. 1 and argued that he admitted that they have not described him as casual worker in the attendance-cum-acquittance registers, certified copies of which were got marked by consent as Exts. W. 2 to W. 33. The II Party has not proved by any written record that the I Party was a casual cooli. None from the C. and D. department was produced to prove that he was a casual worker. M.W. 1 stated that timings of Sri K. Rama's duties were the same as the factory timings. Therefore, it cannot be said that he was a casual worker. With reference to para 4 of the claim statement he argued that therein it is stated that without any cause he was not given work and the stand taken by the II Party in the counter statement in para 3 is that on account of nationalisation and the work of the II Party having steadily fallen down he was not provided with work from 7th November 1968. This plea will mean that he being a surplus his services were terminated. M.W. 1 has not stated as to why this fall has taken place in the retreading

of tyres. The reason of fall in the retreading of tyres was not satisfactorily proved by the II Party. With reference to appointment of Jayskumar from 20th November 1968, within a few days from the discharge of K. Rama, as a sweeper and cleaner, he argued that it belies the stand taken by the II Party that there was no work for K. Rama. He argued that the stand taken by the I Party that the termination of service was without any reasonable cause and that the relationship between the workers and the II Party management was not cordial as per para 3 was proved by the evidence of W.W. 1. Therefore, it is clear that he was terminated by way of victimisation. K. Rama has spoken to the fact that the relationship between the management and the workmen was not cordial. He referred to Ex. W. 39, which relates to the non-payment of the increased overtime as per the settlement, and also Ex. W. 40, a letter conveying the resolution of the union to the management dated 6th June 1968. He referred to Ex. W. 41 notice displayed dated 4th January 1968. He argued that this is a warning notice to the workers. This shows that the relationship of management and the workmen was not cordial. But quite contrary to this M.W. 1 has stated that the relationship between the workers and the management was not strained. He referred to Ex. W. 44, a letter dated 9th November 1968, which refers to closure of the factory on 8th and 9th November, 1968. He referred also to Ex. W. 42 which is another letter and which is a reply to the notice dated 4th November 1968 sent the union to the management. He argued that Ex. W. 38 dated 15th November 1968 was sent by Rama to the II Party. The receipt of it was admitted by M.W. 1 and he has stated that he has not given any reply to this letter. He contended that K. Rama is entitled to reinstatement with back wages and continuity of service, as his services were terminated by way of victimisation. He alternatively argued that even if it is taken for granted that victimisation is not proved and that there was fall in the working of the Party, then K. Rama's termination of service will amount to retrenchment and as the provisions of Section 25F of the Industrial Disputes Act, 1947 have not been complied with by the II Party in this case, his termination by way of retrenchment becomes illegal, and hence the worker will be entitled to reinstatement with back wages. He argued that even if his services are taken from 31st June 1967 his service will be of a period of one year and 8 months on 7th November 1968. Therefore, he must be deemed to be governed by Section 25F of the said Act for the purpose of retrenchment. In support of this he relied

upon the ruling reported in 1969 Lab. I.C. Orissa 1282. He argued that viewing from any point of view the worker is entitled to reinstatement with back wages and continuity of service. He further relied upon the rulings reported in 1967 (II) LLJ SC 23 and 1964 (I) LLJ SC 351.

7. Sri K. S. Rao for the IF Party argued that it is admitted by both the sides that K. Rama was a cooli. In his deposition he admitted that he was paid wages only on the days he worked. According to the cross-examination of M. W. 1 attendance of K. Rama was maintained for the purpose of payment. He argued that the word 'casual' is defined in page 282 of the Webster's Dictionary. Exs. W. 2 and W. 3 show that he was not paid for the days he was absent. Ex. W. 22 shows that for the week ending 20th January 1968 he worked only for half a day and received half a day's wages. He was marked neither present nor absent. In the same page it is shown that for the week ending 29th January 1968 he worked only for one day and got one day's wages. He argued that it is clear that K. Rama was a casual worker, because he was paid only for the days he worked. The IF Party did not insist upon him to come for work when he did not want to come as spoken to by M. W. 1 in his examination-in-chief. He contended that the word 'casual' does not give the meaning that he was a permanent worker in view of the dictionary meaning. The word 'casual' is not defined in the Model Standing Orders. Manufacturing process, i.e., retreading of tyres is quite different from the stepny work. He argued that even if Ex. M. 1 is not taken into consideration it not being proved by the production of original registers, still the evidence of M. W. 1 can be accepted as true when he has stated in his evidence that the retreading work has fallen down. In support of the fact that there was nationalisation of bus routes, he relied upon the awards of this Court published in the *Mysore Gazette* Part (iv)-2C-(ii) pag 2,669 dated 25th June, 1970 and Part (iv) 2C-(ii) page 4 189 dated 20th August, 1970 relating to C. P. C. and Popular Motor Service respectively. On the point of victimisation he argued that the worker has stated that he was victimised on account of his trade union activities. But he joined the union in 1968 in the same year when his services were terminated, and Exs. W. 37 and W. 38 are the membership receipts. Ex. W. 37 is dated 6th November 1968 and the alleged termination was on 7th November 1968. There is no evidence with regard to this worker being a member of the union during the period when the

correspondence between the management and the union took place, i.e., as per Exs. W. 39, W. 40, W. 43 and W. 44. Therefore, the plea of victimisation is false. He relied upon the rulings reported in 1962 (II) LLJ 772, 1963 (II) LLJ 429 and 1963 (I) LLJ 291. He further contended that M. W. 1 was not confronted with the contents of Exs. W. 39 and W. 40. He argued that Ex. W. 41 is against the worker in view of their go slow tactics, and as such it cannot be construed to be against the management. He argued that the plea of continuous service was not taken in the claim statement. So sec. 25F of the Industrial Disputes Act, 1947 is not applicable to this case. That apart there is no reference as to whether the retrenchment is justified or not. Therefore, the alternative argument of the I Party cannot be tenable. The question of reinstatement or retrenchment does not arise in this case. It is a case of simple discharge.

8. In the reply argument Sri P. Ghate for the I Party argued that the point of retrenchment can be considered in this case, in view of the wording of the reference which is wide enough to encompass this point. He contended that Sec. 25F(b) (2) of the Industrial Disputes Act, 1947 is applicable to this case, because the worker has worked for more than 240 days within the period of twelve months as can be calculated from Exs. W. 20 to W. 33.

9. I have given my anxious consideration to the able arguments advanced on either side, and now I advert to consider the additional issue No. 3 at the outset which can be disposed of easily without going into lengthy discussion of the evidence of the parties. The additional issue No. 3 is based on the averments made in paras 3 and 4 of the claim statement and the averments have already been indicated above while stating the case of the I Party. Their reiteration here again is not necessary. This plea of victimisation and unfair labour practice was denied by the II Party in para 5 of the counter statement, stated that the management is not at all interested in harassing workmen or to adopt practices which are unfair. It is not true that the management is following vindictive policies or measures, and that the union has misinterpreted every action of the management to suit its convenience. The facts stated in para 3 of the claim statement were denied. It is stated in para 7 that other allegations not admitted therein are thereby denied.

10. Ex. W. 39 is a letter issued by Mill and General Mazdoor Sangh 'Felix Pie Bazaar' Mangaere-1 dated 18th October 1967 to

the Manager, Messrs. Canara Tyre and Rubber Works, Ltd., Kodialbail, Mangalore-3, under the subject payment of the difference in overtime wages from 1st January 1967 onwards. Therein the memorandum of settlement dated 15th September 1967 was referred to and stated that they, i.e., the management had been pleased to increase the salary of their employees by 20 paise per day with effect from 1st January 1967 and expressed their thanks for promptly paying the arrears of salary as per term No. 1 of the above settlement to all their employees. But it is stated that they understand that the additional amount that would be due to the employees for the overtime work performed by them from 1st January 1967 till the date of the settlement on account of increase in their salary from 1st January 1967 has not yet been paid, and it was requested that they would be highly grateful to them if they would be kind enough to make the above payment at a very early date. This letter in view of its contents, in my view, does not show that the relationship between the workers of the II Party and the management of the II Party was not cordial. The next letter is Ex.W.40 issued by the same Sangh to the Canara Tyre and Rubber Works, Ltd., Kodialbail, Mangalore-3 which is dated 6th June 1968. This contains the resolution passed by the employees on 4th June 1968 at the registered office of the Sangh. Two things were resolved by the employees. Firstly, to request the management of M/s. Canara Tyre and Rubber Works, Ltd., Mangalore, that the educational and medical facilities, etc., that were being extended to their employees through the Canana Tyre and Rubber Works Kelasagarara Sangha and which were abruptly stopped that year may be continued to be extended as usual immediately. Secondly, that this meeting strongly protests to the 10 per cent cut in the bonus disbursed for the year 1967, to the employers of Canara Tyre and Rubber Works, Ltd., Mangalore contrary to the terms of settlement in the agreement dated 25th July 1966 between the representatives of the workmen, i.e., the Mill and General Mazdoor Sangh and the management to pay upto 1967 bonus equivalent 50 per cent of the total annual basic salary. It is stated that therefore it was resolved to demand from the management to restore the 10 per cent cut, in the bonus immediately. From this letter it may be inferred however that the relationship between the workmen of the II Party and the II Party management became somewhat bitter for the 10 per cent cut in the bonus, and the educational and medical facilities available to the workmen being withdrawn. But there is no record to show that when this resolution

was passed on 6th June 1968 the present workman was also a member of the said Sangh and participated in this meeting wherein this resolution came to be passed by the employees of the II Party. On the other hand, from the oral evidence of O.W. 1 and the receipt produced by him it becomes apparent that he became the member of the said Sangh only in the month of November, 1968. W.W. 1, Sri Rama, in cross-examination at page 4 has stated that he became member of the union in 1968. He does not know in which month he joined the union. He has got receipt of payment of subscription. He produced two receipts, dated 6th November 1968 and 20th May 1970 marked as Exs. W. 37 and W. 38. Thus in view of these receipts it is obvious that he became a member of the Sangh from 6th November 1968 and not earlier. He further admitted that he had no quarrel with his employer during his service. Because of the dispute with regard to bonus and over-time wages, the relationship between the workmen and the management was not cordial. Thus it is clear that he was not a party to Exs. W. 39 and W. 40. That being the case, it cannot be inferred that the II Party was bearing ill-will against this I Party workman and that that ill-will was responsible for the refusal of work to him from 7th November 1968.

11. Ex W. 41 is the notice issued by the II Party whereby loss of production, delay in delivery of retreaded tyres, loss of customers and resultant loss to the company was complained of due to the refusal of workers to work beyond 5-30 c.m. on 2nd November 1968 after the resumption of current and also the go-slow tactics of the workers have been brought to light with a warning to the workers in the terms that the indifference and unfaithful attitude of the workers on 2nd November 1968 should be a warning to all the workers and not a particular warning to the present worker. Therefore, from this notice this Court cannot infer that the mind of the management was working against the I Party workman to refuse work anyhow to him from 7th November 1968. In my view the I Party has miserably failed to prove that the II Party management is guilty of victimisation and unfair labour practice against the I Party workmen as averred in paras 3 and 4 of the claim statement. Consequently, this additional issue No. 3 is answered against the I Party workman and in favour of the II Party that the I Party workman failed to prove that the II Party management is guilty of victimisation and unfair labour practice against that I Party workman in refusing work to him from 7th November 1968. In view of this conclusion, the rulings cited on

he side of the II Party that are reported in 1962 (II) LLJ 772 and 1963 (II) LLJ 429 and 1963 (I) LDJ 291 were not discussed.

12. Now I advert to the additional issues 1 and 2 together which are interconnected. There is no dispute with regard to the I Party workman being a cooli and his having worked under the II Party with effect from 12th April 1966 to 6th November 1968 as per Exs. W. 2 to W. 33 excluding the days on which he remained absent and was not paid, and this fact is also admitted by both the sides. Because W. W. 1 admitted that in Canara Tyre he was working as a cooli. He was as per the directions of the management doing the work of a cooli. When he happened to remain absent and did not work, he did not get his cooli. When the factory was closed he did not get his cooli for weekly off. But at the same time, he stated that he joined Canara Tyres three years ago, i.e., he joined the service three years before his termination by the II Party. M.W.1 Sri P. R. Mallya has also stated in examination-in-chief that one K. Rama was working in their establishment as a casual worker. He was not paid when he did not work on any day. They did not insist upon him to come if he did not come. They filed counter statement in this case according to which he worked from 16th April 1966 to 24th February 1967 and then from 1st April 1967 to 9th November 1968 as a casual worker. On 9th November 1968 they never told him that his services were terminated by them but he told him that he had no work to provide with.

13. The word 'casual' is not defined in the Industrial Disputes Act, 1947 but the dictionary meaning as given in Webster's New Twentieth Century Dictionary, Unabridged, Second Edition, 1958 at page 282 is "Occasional ; coming at certain times, without regularity, in distinction from stated or regular ; as a casual worker is one without regular employment". This is the meaning given to 'casual' as adjective, and as noun its meaning is "A person who does something or is in some place only occasionally or temporarily especially, a casual worker or occasional recipient of charity". Thus it is clear in view of the adjective meaning and its meaning as a noun that 'casual worker' means a person who does something or is in some place only occasionally or temporarily, i.e., a casual worker is one who is without regular employment. Thus the nature of the employment of the I Party workman is determined to be only as that of a casual worker, and that being the case, M.W.1, Sri P. R. Mallya, has used the words 'casual worker' in respect of

this workman throughout his statement. As the nature of his appointment is determined to be casual his being employed for work will naturally be dependent upon the need of the other side. It is an admitted fact that the II Party is carrying on retreading of tyre work and from the evidence of M. W. 1 it is evident, without regard being paid to Ex.M.1 which is left unproved by non-production of the original registers, that the tyre retreading work was good upto 1967 and after that it had steadily declined. This version gains support from the event of nationalisation of bus routes which has really caused the discontinuance of private transport services in South Kanara from 1st July, 1968. The nationalisation of bus routes being enforced from 1st July 1968 is evident from the awards of this Court published in the *Mysore Gazette* Part (IV)-2-C-(ii) page 2,669 dated 25th June 1970 and page 4189 dated 20th August 1970. Therefore, the plea taken by the II Party in para 3 of the counter statement, that the management is engaged in the activities of retreading tyres, and that in 1968 the number of tyres retreaded by the II Party management steeply fell down, on account of nationalisation of routes and other causes, and that there being no casual work for Sri K. Rama, he being casual and temporary worker, their action, i.e., their action in refusing him work from 7th November 1968 is justified, has been well established. Consequently, the additional issue No. 1 is liable to be disposed of in favour of the II Party and as against the I Party. In this respect the contention of Sri K. S. Rao prevails over the argument of Sri P. Ghate. But Sri P. Ghate has advanced his alternative argument also with reference to Section 25F of the Industrial Disputes Act, 1947. Whether this alternative argument of Sri P. Ghate for the I Party should be accepted or not is the question before me now to consider.

14. In my view whether the refusal of work to the I Party workmen from 7th November 1968 amounts to retrenchment or not cannot be considered in this case, because the reference is not to the effect whether the retrenchment by way of termination of service is justified or not. Disputes relating to retrenchment come under Schedule III. Item 10 of the Industrial Disputes Act, 1947 which are exclusively triable by the Industrial Tribunal, but such a dispute may be referred to the Labour Court also under the proviso to Section 10 (1) of the Act, if the retrenchment is not likely to affect more than one hundred workmen. But there is no

specific reference made to this Court as to whether the retrenchment by way of termination of service of the I Party workman by the II Party management is justified or not. From the ruling cited on the side of the I Party reported in 1964 (I) LLJ SC 351 (Bombay Union of Journalists and others v. State of Bombay and another) it is clear that in case of breach of Section 25F of the Industrial Disputes Act the appropriate Government may refer a dispute under Section 10 (1) read with Section 12 (5) after considering all the relevant facts and the expediency of making a reference or not. It is observed at page 358 that—

“The breach of Section 25F is no doubt a serious matter and normally the appropriate Government would refer a dispute of this kind for industrial adjudication; but the provisions contained in S. 10(1) read with S. 12(5) clearly shows that even where a breach of S. 25F is alleged, the appropriate Government may have to consider the expediency of making a reference and if after considering all the relevant facts, the appropriate Government comes to the conclusion that it would be inexpedient to make the reference, it would be competent to it to refuse to make such a reference.”

The other rulings reported in 1967 (II) LLJ SC 23 (National Iron and Steel Company, Ltd., and others, v. State of West Bengal and another) and 1969 Lab. I. C. Orissa 1282 (Duryodhan Naik and others, Petitioners v. Union of India and others, Opposite parties) being not direct in point are not considered here. Hence the additional issue No. 2 does not survive for consideration. The additional issue No. 1 as per the conclusion arrived at as above is answered in the terms that the workman, Sri K. Rama was a casual and temporary cooli, and that the II Party management refused him work or terminated his service on account of nationalisation of passenger transport and for steep falling the retreading work, and that therefore the action of the II Party management against the said worker in refusing employment to him or in other words, terminating his service from 7th November 1968 is quite justified.

15. In view of the finding on additional issue No. 1, the point No. I of the points of dispute answered in the same way that the management of Canara Tyre and Rubber Works, Ltd., Kodialbail, Mangalore was quite justified in refusing employment

or in other words, terminating the service of Sri K. Rama with effect from 7th November 1968.

16. In view of the findings on additional issue No. 1 and the point No. 1 of the points of dispute, the second point of dispute is answered in the terms that the said worker is not entitled to reinstatement with back wages and continuity of service or to any other relief.

17. Now remains the additional issue No. 4 as to "what award" In view of the findings on the additional issue No.1 and the points of dispute I and II, I make the following award:

AWARD

The reference is answered in the terms that the management of Canara Tyre and Rubber Works, Ltd., Kodialbail, Mangalore was justified in refusing employment, or in other words, terminating the service of Sri K. Rama with effect from 7th November 1968. The said worker is held not entitled to reinstatement with back wages and continuity of service or to any other relief. The question of retrenchment was not considered, there being no specific reference to that effect being made to this Court for adjudication. In the circumstances of this case, the parties are directed to bear their respective costs of this reference.

Mangalore,
13th November, 1970.

MOHD. HAMMEDUDDIN KHAN,
Presiding Officer,
Labour Court, Mangalore